IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9210 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KAILASBEN PRAMODRAI PANDYA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9210 of 1995

MR JJ SHAH for Petitioner No. 1

MR SOMPURA, AGP, for Respondents

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 05/02/2002

ORAL JUDGEMENT

1. Kailasben Pramodrai Pandya-petitioner has filed this petition with a prayer that this court may be pleased to issue a writ of mandamus or any other order

directing the respondents to pay to the petitioner pension as per letters dated 20.4.1991 and 23.11.1993 immediately from 27.2.1980 with interest on the said amount.

2. From the facts which are on record it appears that the petitioner is widow of Pramodrai Vasudev Pandya who died on 26.2.1980. On 21.6.1960 Pramodrai Vasudev Pandya joined service. On 4.7.1968 he abandoned the service and thereafter he never returned. From June, 1960 to 17.6.1963 he served as primary teacher in primary school at Sanand taluka. Thereafter, from 30.4.1965 he served in Danduka taluka. On 4.7.1968 he resumed at Kamyana Primary School of Dhanduka taluka. Thereafter he proceeded on leave with leave report of 9.7.1968 to 9.9.1968. Afterwards, he never resumed on his duties. Ultimately he abandoned service from 4.7.1968. In the sum and substance of aforesaid facts and circumstances, the petitioner's husband has not completed qualifying service for pension. It may be noted that since the petitioner's husband was not eligible to draw pension, the petitioner is also not entitled for family pension after the death of her husband. The petitioner's husband expired on 26.2.1980. It appears that the petitioner has filed the application before the authority for obtaining pension and the District Education Officer by his communication dated 20.4.1991 recommended the case of the petitioner to the Accounts Officer to give the pension as the same was sanctioned by the authority on 27.2.1980. The said authority again wrote a letter on 23.11.1993 to give pension to the petitioner. The petitioner made representation to the Minister on 28.10.1994.

3. Mr. Sompura, learned A.G.P. appears on behalf of the respondents. He relied on the affidavit filed by P.T. Pandya, District Primary Officer, Ahmedabad. As stated above, the petitioner has abandoned service from 4.7.1968 and therefore he has not completed qualifying service for pension.

4. In the aforesaid facts and circumstances of the case the petitioner's husband has not served for qualifying services so as to enable him to make eligible to draw the pension.

5. In view of the above, the present petition is required to be rejected and accordingly it is rejected. Rule is discharged with no order as to costs.

(K.M. MEHTA, J)

(pkn)